

# Notice of Allowability

Application No.

10/075,909

Examiner

Tamthom N. Truong

Applicant(s)

BARVIAN ET AL.

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment of 02-12-04.
2. ☒ The allowed claim(s) is/are 9, 11, 15 and 22-24.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 2/9/04; 5/29/02; 7/8/02; 7/28/03;
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

***Allowable Subject Matter***

Applicant's amendment of 02-12-04 has been entered, and considered. Claims 1-8, 10, 12-14, 16-21, and 25 have been cancelled. The cancellation of claims 6-8 and 10 has obviated the previous 102(b) rejection based on the references of Nickell et. al., Yamamoto et. al., Beilstein RN 139954, Matsumoto et. al., Titov et. al., Mermann, Schmaizi et. al., Beilstein RN 786662, and Baader et. al. Claims 22-24 have been amended to depend on claim 9, and thus, they have obviated the previous 112/2<sup>nd</sup> rejection.

Claim 15 has been amended to depend on claim 9, and thus, no longer gets withdrawn.

With no other outstanding rejection, pending claims 9, 11, 15, and 22-24 are allowed.

***Reason for Allowance***

The following is an examiner's statement of reasons for allowance:

The invention is drawn to compounds of formula IV  
(i.e., substituted di-(phenyl-(CH<sub>2</sub>)<sub>n</sub>-O-C(=O))-pyrimidyl), and  
their pharmaceutical composition as well as methods of treatment.  
The prior arts of record fail to teach a compound analogous to  
formula IV. An update search yields references as cited on  
PTO-892. Said references do not anticipate or render obvious  
the instant compounds because they fail to teach the dicarboxylate  
side chain on the pyrimidyl ring.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

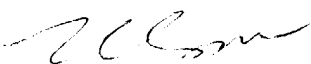
***Information Disclosure Statement***

The Supplemental IDS of 2-9-04 has been considered. No issue of double patenting, anticipation, or obviousness is noted for the claimed formula IV.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamthom N. Truong whose telephone number is 571-272-0676. The examiner can normally be reached on M-F (~10 am ~ 6:30 pm).

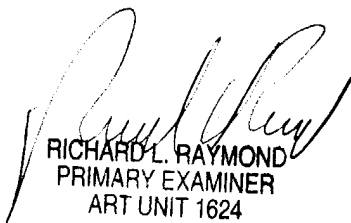
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mukund Shah can be reached at 571-272-0674. If you are unable to reach Dr. Shah within a 24 hour period, please contact James O. Wilson, Acting SPE of 1624, at 571-272-0661.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

  
T. Truong

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June 24, 2004

  
RICHARD L. RAYMOND  
PRIMARY EXAMINER  
ART UNIT 1624